

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STEVEN R. KINCAID,

Plaintiff,

v.

BANK OF AMERICA
CORPORATION,

Defendant.

Civil Action No. 04-11522-WGY

PLAINTIFF'S SECOND MOTION TO COMPEL DISCOVERY

Pursuant to Fed.R.Civ.P. 37(a) and (b), plaintiff hereby moves for an order:

compelling defendant to provide plaintiff with the outstanding remainder of the discovery compelled by the Court in its September 8, 2005 Order no later than 4:00 p.m. on October 14, 2005 and stating that, if defendant fails to do so, a judgment by default shall be entered against it;

2. compelling defendant to provide plaintiff with the other discovery described in the accompanying Memorandum no later than 11:00 a.m. on October 17, 2005; and

3. requiring defendant to pay plaintiff the reasonable expenses incurred in making this Motion, including attorney's fees

The grounds for this Motion are set out in the accompanying Memorandum

Dated: October 12, 2005

Respectfully submitted,



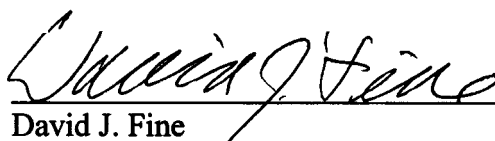
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Attorney for Plaintiff

Certificate of Service

I hereby certify that I have this day served the foregoing by causing true copies thereof to be transmitted electronically and mailed, first class postage prepaid to, Richard F. Kane and Steven T. Ackermann, Esqs., McGuire Woods LLP, Bank of America Corporate Center, 100 North Tryon Street, Suite 2900, Charlotte, NC 28202, and to George P. Kostakos and Siobhan M. Sweeney, Edwards & Angell, LLP, 2800 Financial Plaza, Providence, RI 02903, attorneys for defendant.

Dated: October 12, 2005



David J. Fine